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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re W.M., a Person Coming Under the Juvenile Court Law.
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CITY OF VALLEJO,
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Plaintiff and Appellant,
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v.
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SUPERIOR COURT OF SOLANO COUNTY,
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Real Party in Interest.
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A166116

(Solano County  
Super. Ct. No. J40937)

City of Vallejo (City) police officers fatally shot W.M. — an adult. His estate and family members filed a federal lawsuit. The City filed a petition under Welfare and Institutions Code section 827 seeking to inspect W.M.’s juvenile delinquency records, which it intends to use to defend itself. (Undesignated statutory references are to this code.) The juvenile court summarily denied the request, concluding the City was not an entity listed in section 827, subdivision (a)(1). On appeal, the City contends the court erred because section 827, subdivision (a)(1)(Q) authorizes a juvenile court to permit the City’s review of the records.<sup>1</sup> We agree and reverse.

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<sup>1</sup> Neither W.M.’s estate nor family has appeared in this appeal. We ordered the First District Appellate Project to identify amicus curiae counsel to represent the interests of both W.M. and individuals who have had cases in

## BACKGROUND<sup>2</sup>

W.M.'s estate and family filed a federal civil rights and wrongful death lawsuit against the City and several police officers. According to the complaint, six police officers in February 2019 arrived at the drive-thru of a fast food restaurant where W.M. was in his car, unconscious and slumped over the steering wheel. Officers stated W.M. had a handgun on his lap. After police surrounded W.M.'s car, he began to rouse. Officers then shot 55 rounds into the car, killing W.M. The estate seeks damages for, among other things, loss of familial association, loss of life, pain and suffering, and violation of constitutional rights.

Based on W.M.'s education records obtained through discovery, the City determined W.M. was once subject to juvenile delinquency proceedings — his high school records indicated he had a probation officer. (§ 602.) The City filed a petition seeking access to W.M.'s juvenile delinquency records. Those records, the City argued, were relevant to defend against the loss of enjoyment of life claims, which require the fact finder to evaluate W.M.'s expected quality of life and enjoyment had he survived. The City also argued evidence of W.M.'s possible history of violence and whether he had a propensity for violence was relevant to determining whether the officers shot him in self-defense. The record does not indicate W.M.'s estate objected to the City's request to inspect the case file.

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the juvenile justice system. The First District Appellate Project submitted an amicus curiae brief urging affirmance.

<sup>2</sup> While this case was being briefed, the City filed multiple requests for judicial notice of several documents, such as court records and legislative history, and we deferred a ruling until the merits of the appeal. We now deny the City's request since the documents do not bear on our analysis. (*Arce v. Kaiser Foundation Health Plan, Inc.* (2010) 181 Cal.App.4th 471, 482.)

The juvenile court denied the City’s petition, concluding it is not an entity authorized to review case files under section 827, subdivision (a)(1).

## DISCUSSION

The City contends the juvenile court erred. Section 827, subdivision (a)(1)(Q) authorizes “[a]ny other person who may be designated by court order of the judge of the juvenile court” to inspect a case file. According to the City, the court ignored the statutory language, thereby failing to properly assess the City’s petition. This poses an issue of statutory interpretation that we review independently. (*Therolf v. Superior Court* (2022) 80 Cal.App.5th 308, 333, fn. 23 [de novo review for statutory interpretation issues].) When construing a statute, we start with its language and give the words their plain, ordinary meaning to effectuate the Legislature’s purpose. (*People v. Harrison* (2013) 57 Cal.4th 1211, 1221–1222.) Having engaged in that process, we agree with the City.

Juvenile case files, which contain various documents including police and probation reports, are generally confidential. (§ 827, subds. (b), (e); *In re Keisha T.* (1995) 38 Cal.App.4th 220, 230–231.) Section 827, subdivision (a)(1) identifies individuals and entities who may inspect a juvenile case file without a court order. (§ 827, subd. (a)(1); *People v. Thurston* (2016) 244 Cal.App.4th 644, 670.) For example, minors and their parents, court personnel, or attorneys who are actively participating in criminal or juvenile proceedings involving the minor, may inspect these records without a court order. (§ 827, subd. (a)(1)(A)–(T).)

The City is *not* listed as one of the entities entitled to inspect juvenile case files without a court order<sup>3</sup> — the juvenile court was correct on this

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<sup>3</sup> Although the city attorney is authorized to inspect juvenile records if prosecuting a criminal or juvenile case under state law or if representing the

point. And as the City ultimately concedes, nor is it entitled to access W.M.’s juvenile delinquency files under section 827, subdivision (a)(2). That subdivision provides, in relevant part, “juvenile case files, *except those relating to matters within the jurisdiction of the court pursuant to Section 601 or 602*, that pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, shall be released to the public pursuant to an order by the juvenile court.” (§ 827, subd. (a)(2)(A), italics added.) This provision expressly applies to the records of deceased *dependents* of the juvenile court. (*Therolf v. Superior Court*, *supra*, 80 Cal.App.5th at p. 335; § 300, subds. (b)–(j) [establishing jurisdiction over children who have suffered or there is substantial risk the child will suffer among other things, serious physical harm or illness, emotional damage].) More pertinent here, records relating to juvenile *delinquency* jurisdiction, sections 601 and 602, are explicitly excluded under section 827, subdivision (a)(2). (§§ 601, subd (a) [juvenile court jurisdiction over minors for habitual disobedience or truancy]; 602, subd. (a) [juvenile court jurisdiction over minors who engaged in criminal offenses].)

Summarily denying the petition was nonetheless erroneous. Juvenile case files may be inspected by “[a]ny other person who may be designated by court order of the judge of the juvenile court.” (§ 827, subd. (a)(1)(Q).) To do so, a petitioner must demonstrate good cause — that is, it must articulate the relevance of or purpose for which the file is sought. (Cal. Rules of Court, rules 5.552(b), (d)(1); subsequent unspecified references to rules are to the California Rules of Court; *Navajo Express v. Superior Court* (1986) 186 Cal.App.3d 981, 985.) If good cause is shown, the court must carefully

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petitioning agency in a dependency action, neither of these circumstances are present here. (§ 827, subd. (a)(1)(B), (F).)

balance the competing interests of the minor, other parties to the juvenile court proceedings, the petitioner, and the public. (Rule 5.552(d)(4); *City of Eureka v. Superior Court* (2016) 1 Cal.App.5th 755, 762.) In doing so, the court must consider any disclosure restrictions in other statutes, “the general policies in favor of confidentiality and the nature of any privileges asserted, and compare these factors to the justification offered by the applicant’ in order to determine what information, if any, should be released to the petitioner.” (*People v. Superior Court* (2003) 107 Cal.App.4th 488, 492.) Before granting the petition, the court must find “the need for access outweighs the policy considerations favoring confidentiality of juvenile case files,” which is intended to protect the minor’s privacy rights. (Rule 5.552(d)(5).) The court may permit access to the files “only insofar as is necessary, and only if petitioner shows by a preponderance of the evidence that the records requested are necessary and have substantial relevance to the legitimate need of the petitioner.” (Rule 5.552(d)(6).)

The juvenile court did not engage in this analysis. (*In re Anthony H.* (2005) 129 Cal.App.4th 495, 506.) It did not assess whether the City had demonstrated good cause to access the records; perform an in camera review of W.M.’s case file to determine what, if any, material should be disclosed; or balance the City’s and W.M.’s competing interests. (*Ibid.*; *Navajo Express v. Superior Court*, *supra*, 186 Cal.App.3d at p. 985.) On this record, we cannot conclude, as amicus curiae urges, that there was no reasonable probability the court would have granted the City’s petition, even if it had engaged in this analysis, i.e., harmless error. “It is not appropriate for this court to second-guess what the juvenile court’s determinations and findings might have been had the juvenile court balanced [W.M.’s] privacy interests against [the City’s] competing interests” in defending itself in W.M.’s federal action.

(*Anthony H.*, at p. 506.) The court must determine whether any of W.M.’s juvenile case files may be disclosed, “and under what conditions, in connection” with the ongoing federal action. (*Ibid.*) We thus reverse and remand.

To the extent amicus curiae contends disclosure of juvenile delinquency records in civil cases is only authorized in certain circumstances — lawsuits serving the interests of the minor or other minors, such as reform of the juvenile system, or in which the minors place their own conditions in dispute — we disagree. Section 827 does not contain any such categorical limitation and the cases amicus curiae cites do not create one. Those cases simply granted access to case files only after balancing the competing interests. (See, e.g., *R.S. v. Superior Court* (2009) 172 Cal.App.4th 1049, 1056 [limited disclosure of taped interview was less traumatic to victim than having to endure depositions and testify at trial]; *Navajo Express v. Superior Court*, *supra*, 186 Cal.App.3d at pp. 985–986 [need for discovery where real party in interest asserted accident caused his emotional and behavioral problems outweighed policy considerations favoring confidentiality of juvenile records].) Indeed, as amicus curiae concedes, whether to grant access to juvenile files is case specific. (*Pack v. Kings County Human Services Agency* (2001) 89 Cal.App.4th 821, 828–829.) The open-ended language in section 827 vests “the juvenile court with exclusive authority to determine when a release of juvenile court records to a third party is appropriate”; it does not limit the circumstances under which third parties may access juvenile case files. (*In re Keisha T.*, *supra*, 38 Cal.App.4th at p. 232.)

We likewise disagree with the City that there is a special presumption in favor of disclosing a deceased minor’s juvenile delinquency records once the petitioner demonstrates good cause for access. (*Pack v. Kings County Human*

*Services Agency, supra*, 89 Cal.App.4th at p. 829 [noting only that § 827, subd. (a)(2), which governs disclosure of juvenile *dependency* records, “reflects a veritable presumption in favor of release when the child is deceased”].) When balancing the competing interests, the juvenile court “must recognize the general policy of confidentiality and hold paramount the best interests of the minors.” (*In re Keisha T., supra*, 38 Cal.App.4th at p. 240.) While confidentiality “protect[s] the best interests of the minors,” it “also encourages full disclosure, by the minors and others, of all information necessary for proper functioning of the juvenile welfare system.” (*Ibid.*) The balancing process “may be lengthy, and the balance of the concerns weigh predominately against access.” (*Pack*, at p. 829.)

### **DISPOSITION**

The juvenile court’s order is reversed. The cause is remanded with instructions to the court to determine whether the City has presented good cause for accessing W.M.’s juvenile case file, and if so, to conduct an in camera review of the case file to determine whether documents relevant to the issues raised in the City’s section 827 petition exist. If such documents exist, the court must balance the interests of W.M., the City, and the public to determine whether such documents should be disclosed and the appropriate scope of any such disclosure.

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Rodríguez, J.

WE CONCUR:

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Tucher, P. J.

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Petrou, J.

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